

STATE OF SOUTH CAROLINA )

(Caption of Case) )

Application of Bandwidth.com CLEC, LLC to Provide )  
Resold Interexchange and Local Exchange )  
Telecommunications Services Throughout South )  
Carolina )

BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA

COVER SHEET

DOCKET  
NUMBER: 2007 - - C

(Please type or print)

Submitted by: John J. Pringle, Jr.

SC Bar Number: 11208

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NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition

☐ Request for item to be placed on Commission's Agenda expeditiously

☐ Other:

INDUSTRY (Check one)

- ☐ Electric  
☐ Electric/Gas  
☐ Electric/Telecommunications  
☐ Electric/Water  
☐ Electric/Water/Telecom.  
☐ Electric/Water/Sewer  
☐ Gas  
☐ Railroad  
☐ Sewer  
☒ Telecommunications  
☐ Transportation  
☐ Water  
☐ Water/Sewer  
☐ Administrative Matter  
☐ Other:

NATURE OF ACTION (Check all that apply)

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> Affidavit                 | <input type="checkbox"/> Letter                            | <input type="checkbox"/> Request                   |
| <input type="checkbox"/> Agreement                 | <input type="checkbox"/> Memorandum                        | <input type="checkbox"/> Request for Certification |
| <input type="checkbox"/> Answer                    | <input checked="" type="checkbox"/> Motion                 | <input type="checkbox"/> Request for Investigation |
| <input type="checkbox"/> Appellate Review          | <input type="checkbox"/> Objection                         | <input type="checkbox"/> Resale Agreement          |
| <input type="checkbox"/> Application               | <input type="checkbox"/> Petition                          | <input type="checkbox"/> Resale Amendment          |
| <input type="checkbox"/> Brief                     | <input type="checkbox"/> Petition for Reconsideration      | <input type="checkbox"/> Reservation Letter        |
| <input type="checkbox"/> Certificate               | <input type="checkbox"/> Petition for Rulemaking           | <input type="checkbox"/> Response                  |
| <input type="checkbox"/> Comments                  | <input type="checkbox"/> Petition for Rule to Show Cause   | <input type="checkbox"/> Response to Discovery     |
| <input type="checkbox"/> Complaint                 | <input type="checkbox"/> Petition to Intervene             | <input type="checkbox"/> Return to Petition        |
| <input type="checkbox"/> Consent Order             | <input type="checkbox"/> Petition to Intervene Out of Time | <input type="checkbox"/> Stipulation               |
| <input type="checkbox"/> Discovery                 | <input type="checkbox"/> Prefiled Testimony                | <input type="checkbox"/> Subpoena                  |
| <input type="checkbox"/> Exhibit                   | <input type="checkbox"/> Promotion                         | <input type="checkbox"/> Tariff                    |
| <input type="checkbox"/> Expedited Consideration   | <input type="checkbox"/> Proposed Order                    | <input type="checkbox"/> Other:                    |
| <input type="checkbox"/> Interconnection Agreement | <input type="checkbox"/> Protest                           |  |
| <input type="checkbox"/> Interconnection Amendment | <input type="checkbox"/> Publisher's Affidavit             |  |
| <input type="checkbox"/> Late-Filed Exhibit        | <input type="checkbox"/> Report                            |  |

Print Form

Reset Form

# ELLIS:LAWHORNE

John J. Pringle, Jr.  
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October 25, 2007

**FILED ELECTRONICALLY AND ORIGINAL VIA 1<sup>ST</sup> CLASS MAIL SERVICE**

The Honorable Charles L.A. Terreni  
Chief Clerk  
**South Carolina Public Service Commission**  
Post Office Drawer 11649  
Columbia, South Carolina 29211

RE: Application of Bandwidth.com CLEC, LLC to Provide Resold  
Interexchange and Local Exchange Telecommunications Services  
Throughout South Carolina  
**Docket No. 2007-\_\_-C, ELS File No. 1363-11553**

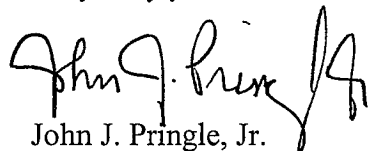
Dear Mr. Terreni:

Enclosed is the original and one (1) copy of the **Motion for Protective Treatment** filed on behalf of Bandwidth.com CLEC, LLC in the above-referenced matter.

Please acknowledge your receipt of this document by file-stamping the copy of this letter enclosed, and returning it in the enclosed envelope.

If you have any questions or need additional information, please do not hesitate to contact me.

Very truly yours,



John J. Pringle, Jr.

JJP/cr

cc: Office of Regulatory Staff Legal Department  
Mr. Kade Ross  
Danielle C. Burt, Esquire

Enclosures

**THIS DOCUMENT IS AN EXACT DUPLICATE OF THE E-FILED COPY SUBMITTED TO THE COMMISSION IN ACCORDANCE WITH ITS ELECTRONIC FILING INSTRUCTIONS.**

**BEFORE THE  
PUBLIC SERVICE COMMISSION  
SOUTH CAROLINA  
DOCKET NO. 2007-      -C**

IN RE:

Application of Bandwidth.com CLEC, LLC  
To Provide Resold Facilities-Based  
Local Exchange and Interexchange  
Telecommunications Services  
Throughout South Carolina

**MOTION FOR PROTECTIVE  
TREATMENT AND  
BASIS FOR FILING EXHIBIT 4  
AS TRADE SECRET**

Bandwidth.com CLEC, LLC (“Applicant”), by counsel, and pursuant to S.C. Code Ann. § 39-8-10, *et seq.*, and S.C. Code Ann. Regs. 103-804(S)(2), hereby files this Motion for Protective Treatment (“Motion”) in the above-captioned proceeding. By this Motion, Applicant seeks protective treatment by the South Carolina Public Service Commission (“Commission”) of certain commercially-sensitive financial information attached as Exhibit 4, filed as Trade Secret to its Application for Authority to Provide Resold and Facilities-Based Local Exchange and Interexchange Telecommunications Services. Because this Motion is an inseparable part of the Application, it is being filed concurrently therewith.

In support of this Motion, Applicant provides the following:

1. The legal name, address, telephone and fax numbers of the Applicant are:

Bandwidth.com CLEC, LLC  
4001 Weston Parkway, Suite 100  
Cary, North Carolina 27513  
Telephone: (919) 945-1230  
Facsimile: (919) 297-1101

2. All correspondence, notices, inquiries, and other communications regarding this

Motion should be addressed to:

John J. Pringle, Jr.  
Ellis, Lawhorne & Sims, P.A.  
1501 Main Street, 5th Floor  
Columbia, South Carolina 29202-2285  
(803) 343-1270 (Tel)  
(803) 799-8479 (Fax)  
jpringle@ellislawhorne.com

and:

William Wilhelm  
Harry N. Malone  
Danielle C. Burt  
Bingham McCutchen LLP  
2020 K Street, NW  
Washington, D.C. 20006  
Tel: (202) 373-6000  
Fax: (202) 373-6001

## **I. Description of Confidential Information**

The Application requires Applicant to disclose evidence of its financial ability to provide service by submitting documentation of its financial resources. Pursuant to this requirement, Applicant is submitting a copy of the most recent financial statement of Bandwidth.com, Inc., its parent. These documents contain highly confidential and strictly proprietary information, the public disclosure of which would result in direct, immediate and substantial harm to Applicant's competitive position in South Carolina and in other states where Applicant is currently doing business.

## **II. Grounds for Claim of Confidentiality**

The financial information submitted by Applicant in Exhibit 4 of its Applicant fits squarely within the definition of a "trade secret" under the South Carolina Trade Secrets Act.<sup>1</sup> As a privately-held company, Applicant's financial qualifications are not readily ascertainable.

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<sup>1</sup> A "trade secret" is defined in S.C. Code 39-8-20(5)(a) as information that "(i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by the public...and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy."

Applicant currently has no legal obligation to prepare or submit projected financial statements, or to report any financial information to a public entity. Further, the unavailability of this information derives independent economic value for the Applicant because the disclosure of such information would harm its ability to compete in the provision of advanced telecommunications services in South Carolina. Applicant is not a public entity and its financial and business information is uniquely sensitive.

Applicant takes considerable efforts to maintain the secrecy of the information contained in its financial statements. Financial information of this type is not publicly disseminated, and Applicant takes reasonable steps to guard this information internally as well. Its disclosure is limited to Applicant's senior officers, its counsel and employee of the company who are directly involved with its financial operation. Furthermore, when required to submit financial information to public authorities, all such information is clearly stamped "confidential" and is accompanied by formal requests to maintain the confidentiality of the information and to withhold it from public disclosure.

Applicant clarifies that its request for protection applies only to the financial information contained in Exhibit 4 to the Application. Applicant is not seek protection of any type by means of this Motion for those reports it will be required to file with the Office of Regulatory Staff ("ORS") should the relief sought in the Application be granted: the Annual Report From, Gross Receipts Report, or the Universal Service Fund Worksheet.

### **III. Conclusion**

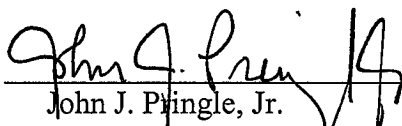
The financial information included in support of the Application, for which confidential treatment is requested, is both proprietary and competitively sensitive. Applicant would suffer substantial direct harm if such information is made publicly available. The harm that would

result from public disclosure of Applicant's financial information is real and not speculative. Moreover, to date, no other jurisdiction has required Applicant to make its financial information publicly available. For the foregoing reasons, the financial information included in Exhibit 4 should be protected from public disclosure by the Commission.

WHEREFORE, Applicant request fully requests that the information contained in Exhibit 4 of its Application for a Certificate of Public Convenience and Necessity be ruled exempt from public disclosure and provided confidential treatment in accordance with S.C. Code Ann. § 39-8-10, *et seq.*

Respectfully submitted,

BANDWIDTH.COM CLEC, LLC

By:   
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Dated: October 24, 2007